REMARKS

The above-referenced patent application has been reviewed in light of the Office Action referenced above. Reconsideration of the above-referenced patent application in view of the following remarks is respectfully requested.

No Claims have been cancelled.

Claims 1, 50, 57, 65, 74, 85, and 92 have been amended.

Claims 1- 4, 6-15, 25-28, 30-33, 37-39, 42, 43, 45, 49- 53, and 56-94 are pending in the application.

The amendment is fully supported by the original disclosure. No new matter has been introduced. By way of example, the amendments to independent Claims 1, 50, 57, 65, 74, 85, and 92 are supported by the detailed description in paragraphs [0014]-[0017], and [0040]-[0043].

Error in Office Action

The Office Action lists Claim 46 as being rejected. In this response, Assignee assumes that the Examiner meant to reject Claim 45 instead of Claim 46, since Claim 46 was previously cancelled.

Claim rejections – 35 USC §103

Independent Claims:

- **Claims 1, 50, 57, 65, 74, 85, and 92** stand rejected under 35 U.S.C. §103(a) as being unpatentable over McLaughlin et al. (US 6,212,387 hereinafter, *McLaughlin*) in view of Love et al. (US 6,934,275 hereinafter, *Love*).

Dependent Claims:

- **Claims 3, 4, 8-15, 25-27, 30-33, 37-38, 42, 43, 45, 49, 52, 59-64, 67-73, 75-84, 86-91, and 93-94** also stand rejected under 35 U.S.C. §103(a) as being unpatentable over *McLaughlin* in view of *Love*.

- **Claims 6-7, 53 and 56** stand rejected under 35 U.S.C. §103(a) as being unpatentable over *McLaughlin* in view of *Love*, in further view of Chavez et al. (US 6,070,071 hereinafter, *Chavez*).

- **Claims 12, 28 and 39** stand rejected under 35 U.S.C. §103(a) as being unpatentable over *McLaughlin* in view of *Love*, in further view of Kao (US 6,175,737 hereinafter, *Kao*).

- **Claim 45** stands rejected under 35 U.S.C. §103(a) as being unpatentable over *McLaughlin* in view of *Love*, in further view of Ueno et al. (US 5,661,723 hereinafter, *Ueno*).

Assignee has amended each of the independent claims to further clarify certain aspects of the claimed subject matter to expedite prosecution. For at least the following reasons, Assignee respectfully submits that the pending claims are patentably distinct over the cited documents and in condition for prompt allowance.

Neither *McLaughlin, Love, Chavez, Kao,* or *Ueno*, alone or in combination, appear to disclose or otherwise suggest dynamically switching between or dynamically selecting transceivers to provide particular dedicated channels for a mobile station in accordance with the pending claims and in particular <u>wherein a radio resource used for the dedicated channels remains unchanged as a result of the dynamic switching and/or dynamic selection.</u>

The detailed description, for example see paragraphs [0014] and [0040], specifies that "a radio resource" may include frequency, time slot, and/or code depending on the applicable multiple access protocol. The fast macrodiversity switching presented in the application and represented via the pending claims in which the "radio resource remains unchanged" is very different from a handover process wherein both the broadcast and dedicated channels are switched to different radio resources, for example, in accordance with a frequency reuse plan.

As such, independent **Claim 1** has been amended to recite a "control means to dynamically switch between said preferred ones of said transceiver stations to provide said particular dedicated channels for said particular mobile station separately from one of said transceiver stations providing particular broadcast channels for said particular mobile station, **and wherein a radio resource used for said particular dedicated channels for said particular mobile station remains unchanged as a result of dynamically switching between said preferred ones of said transceiver stations**".

Consequently, for at least these reasons Assignee respectfully submits that **Claim 1, and Claims 2-4, 6-15, 25-28, 30-33, 37-39, 42, 43, 45, and 49** which depend there from, are patentable over the cited documents and respectfully requests that the rejections be reconsidered and withdrawn.

Independent **Claim 50** has been amended to recite "dynamically switching between, with control means, said preferred ones of said transceiver stations to provide said particular dedicated channels for said particular mobile station separately from one of said transceiver stations providing particular broadcast channels for said particular mobile station, **and wherein a radio resource used for said particular dedicated channels for said particular mobile station remains unchanged as a result of dynamically switching between said preferred ones of said transceiver stations**".

Thus, for at least these reasons Assignee respectfully submits that **Claim 50, and Claims 52, 53 and 56** which depend there from, are patentable over the cited documents and respectfully requests that the rejections be reconsidered and withdrawn.

Independent **Claim 57** has been amended to recite "... wherein the host processor is capable of dynamically selecting one or more of the plurality of transceiver stations to provide the dedicated channels for communications with the first mobile device based on signal measurements, wherein the dynamic selection does not affect the host transceiver providing the broadcast channels, **and a radio resource used for the dedicated channels remains unchanged as a result of the dynamic selection of the one or more of the plurality of transceiver stations**".

As such, for at least these reasons Assignee respectfully submits that **Claim 57, and Claims 58-64** which depend there from, are patentable over the cited documents and respectfully requests that the rejections be reconsidered and withdrawn.

Independent **Claim 65** has been amended to recite "a selector to dynamically select an assistant processor and associated assistant transceiver to provide communications with the particular mobile device via dedicated channels based on the processed measurement signals, **and wherein a radio resource used for the dedicated channels remains unchanged as a**

result of the dynamic selection of the assistant processor and associated assistant transceiver".

Therefore, for at least these reasons Assignee respectfully submits that **Claim 65,** and **Claims 66-73** which depend there from, are patentable over the cited documents and respectfully requests that the rejections be reconsidered and withdrawn.

Independent **Claim 74** has been amended to recite "preferred ones of said transceivers being dynamically selected to provide particular dedicated channels for a particular mobile station separately from one of said transceivers to provide particular broadcast channels for said particular mobile stations, **and wherein a radio resource used for the particular dedicated channels remains unchanged as a result of the dynamic selection of the preferred ones of said transceivers**".

Accordingly, for at least these reasons Assignee respectfully submits that **Claim 74,** and **Claims 75-83** which depend there from, are patentable over the cited documents and respectfully requests that the rejections be reconsidered and withdrawn.

Independent **Claim 84** has been amended to recite "dynamically selecting preferred ones of transceivers to provide particular dedicated channels for a particular mobile station separately from one of said transceivers to provide particular broadcast channels for said particular mobile station, **and wherein a radio resource used to provide the particular dedicated channels remains unchanged as a result of the dynamic selection of the preferred one of transceivers**".

Consequently, for at least these reasons Assignee respectfully submits that **Claim 84,** and **Claims 85-91** which depend there from, are patentable over the cited documents and respectfully requests that the rejections be reconsidered and withdrawn.

Independent **Claim 92** has also been amended to recite "a processor, said processor adapted to dynamically select preferred ones of transceivers to provide particular dedicated channels for a particular mobile station separately from one of said transceivers to provide particular broadcast channels for said particular mobile station, **and wherein a radio resource used to provide the particular dedicated channels remains unchanged as a result of the dynamic selection of the preferred ones of transceivers**".

Thus, for at least these reasons Assignee respectfully submits that **Claim 92,** and **Claims 93 and 94** which depend there from, are patentable over the cited documents and respectfully requests that the rejections be reconsidered and withdrawn.

It is noted that claimed subject matter may be patentably distinguished from the cited references for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignees' failure to comment directly upon any of the positions asserted by the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

Furthermore, failure of the Patentee to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. It is believed that the Examiner's positions are rendered moot by the foregoing and, therefore, it is not necessary to respond to every position taken by the Examiner with which Patentee does not agree in this or other correspondence. Instead, it is believed that the foregoing addresses the issues raised by the Examiner and that the present claims are in condition for allowance.
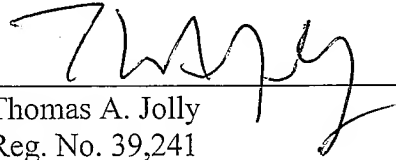
Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Any fees or extensions of time believed to be due in connection with this amendment are enclosed herein; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account 50-3703.

Respectfully submitted,

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